



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,580	12/28/2001	Gary R. Eddy	EDD002USPT01	9162

23403 7590 09/19/2002

SHERRILL LAW OFFICES  
4756 BANNING AVE  
SUITE 212  
WHITE BEAR LAKE, MN 55110-3205

EXAMINER

MARSH, STEVEN M

ART UNIT PAPER NUMBER

3632

DATE MAILED: 09/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/033,580

Applicant(s)

EDDY, GARY R.

Examiner

Steven M Marsh

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first office action for U.S. Application 10/033,580 for an Eaves Trough Support Bracket filed by Gary R. Eddy on December 28, 2001.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 10-13, 16, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,053,491 to Ramser. Ramser discloses an eaves trough support bracket that can be formed from a unitary planar metal blank, with a main beam (7) that has longitudinally spaced distal and proximal ends, laterally spaced first and second edges, and transversely spaced first and second surfaces. There is a connection element (11) extending in a first transverse direction from the distal end of the main beam and a hook (12) extending in the first transverse direction and a second longitudinal direction from the proximal end of the main beam with a concavity open (18) in a second transverse direction. First and second legs (8) extend in a second transverse direction from the first and second edges of the main beam, respectively, and have proximal longitudinal ends substantially transversely aligned with the proximal end of the main beam. The bracket has a laterally extending first bend line (15) along a

Art Unit: 3632

transition line from the main beam to the connection element and a laterally extending second bend line along a transition line from the main beam to the hook.

The hook has a transversely extending shaft portion (13) with a first end connected to the proximal end of the main beam and a second end extending in the first transverse direction from the proximal end of the main beam, a hooking portion with a first end connected to the second end of the shaft and a second end extending away from the distal end of the main beam in a second longitudinal direction from the second end of the shaft, and a transversely extending extension portion (14) with a first end connected to the second end of the hooking portion and a second end extending in the second transverse direction from the second end of the hooking portion. There is a longitudinally aligned hole (18) through each of the shaft and extension portions of the hook effective for accommodating partial passage of a mechanical fastener (17) throughout the holes.

The bracket has a fourth and fifth bend line along transition lines from the main beam to the first and second legs, respectively.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6-9, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramser in view of U.S. Patent 4,294,422 to Odekirk. Ramser does not disclose a connection element with a strut extending in a transverse direction from the beam and a tab extending in a second longitudinal direction from the strut. Nor does Ramser disclose ribs located at the bend lines for strengthening the bracket. Odekirk discloses an aluminum gutter support bracket with a main beam having longitudinally spaced distal and proximal ends, laterally spaced first and second edges, and transversely spaced first and second surfaces. There is a connection element (60) extending in a first transverse direction from the distal end of the main beam and a hook at a second longitudinal direction from the proximal end of the main beam. The connection element has strut (62) with a first transverse end connected to the distal end of the main beam and a second transverse end extending in a first transverse direction from the distal end of the main beam.

There is a tab (64) with a longitudinal end connected to the second transverse end of the strut and a second transverse end extending in a second longitudinal direction from the second transverse end of the strut, with a laterally extending third bend line along a transition line from the strut to the tab. Odekirk also discloses ribs located at the bend lines of the bracket (see fig. 2) for strengthening the bracket. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have substituted the connection element taught by Ramser, with the connection element taught by Odekirk, for the purpose of providing a connection element that could support a gutter with a different configuration. It also would have

Art Unit: 3632

been obvious to one of ordinary skill in the art at the time of the present invention to have provided ribs at the bend lines of the bracket taught by Ramser, as taught by Odekirk, for the purpose of strengthening the bracket.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ramser. Ramser does not specifically disclose a bracket wherein the longitudinal ends of the first and second legs independently have a transverse height of about .5 to 1.5 inches, but that is a matter of engineering preference and would have been obvious to one of ordinary skill in the art at the time of the present invention.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent 6,254,039 B1 to Zimmerman

U.S. Patent 6,209,826 B1 to Pratt, Jr.

U.S. Patent Des. 383,966 to Zaccagni

U.S. Patent 1,855,241 to Irwin

U.S. Patent 5,271,192 to Nothum, Sr. et al.

U.S. Patent 4,241,548 to Rowe

U.S. Patent 5,004,191 to Corry

The above patents all disclose various types of gutter support brackets. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is

Application/Control Number: 10/033,580

Page 6

Art Unit: 3632

(703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

  
Steven Marsh

September 13, 2002

  
ANITA KING  
PRIMARY EXAMINER